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Summary record of the 20th meeting
Held at Headquarters, New York, on Tuesday, 20 October 2015, at 3.05 p.m.

Chair: Ms. Kupradze (Vice-Chair) ..... (Georgia)
later: Mr. Dempsey (Vice-Chair) ..... (Canada)

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In the absence of Mr. Hilale (Morocco), Ms. Kupradze (Georgia), Vice-Chair, took the Chair.

The meeting was called to order at 3.05 p.m.

Agenda item 72: Promotion and protection of human rights (*continued*) (A/70/40)

(a) Implementation of human rights instruments (*continued*) (A/70/44, A/70/48, A/70/55, A/70/223, A/70/273, A/70/297, A/70/299, A/70/302, A/70/425, CAT/C/54/2, E/2015/22-E/C.12/2014/3, E/C.12/54/3 and HRI/MC/2015/6)

(d) Comprehensive implementation of and follow-up to the Vienna Declaration and Programme of Action (*continued*) (A/70/36)

1. **Mr. Salvioli** (Chair, Human Rights Committee) recalled the persistence of human rights violations such as torture, discrimination, violence against women and undue restrictions on civil rights. Drawing attention to the plight of refugees, he said that States alone had the power to restore hope by adopting human rights-based policies and approaches. The Human Rights Committee was ready to assist them through interactive dialogue and the communications mechanism. Some States parties had recently compensated victims or refrained from deporting people to third countries in response to the Committee's Views on individual communications, while others had taken satisfactory steps to implement its concluding observations on their reports. He urged all States to follow that example and to establish effective national mechanisms for attending to and implementing the Committee's decisions. Thanks to General Assembly resolution 68/268, the Office of the United Nations High Commissioner for Human Rights (OHCHR) had a new team to help States with the national reporting and follow-up mechanisms, as well as with the submission of reports.

2. The Human Rights Committee was grateful to have two and a half weeks of additional meeting time in 2015, and with the secretariat's excellent support it had been able to reduce its backlog. Since July 2015, it had considered seven reports per session instead of six, bringing the total number of reports reviewed in 2015 to 20. At the Committee's current session, it would also, on an experimental basis, consider two reports in dual chambers, thereby leaving more time for consideration of individual communications. A total of 112 such communications had been considered by the Committee over the past year. Unfortunately, it had been forced to cancel three and a half days of meetings at the March 2015 session because the under-staffed secretariat had been unable to prepare the preliminary documentation in time. He respectfully reminded the Third Committee that the promotion and protection of human rights was one of the three pillars of the United Nations and should be allocated sufficient resources. The simplified reporting procedure had produced excellent results, and it could be used by any State.

3. The Chairs of the human rights treaty bodies had endorsed the Guidelines against intimidation or reprisals (San José Guidelines) at their 2015 meeting. The Human Rights Committee was currently discussing a draft general comment on the right to life, and he invited States parties and other actors to contribute to that process after the first reading.

4. The International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights were indivisible and interdependent. To celebrate the fiftieth anniversary of the two Covenants in December 2015, the Office of the United Nations High Commissioner for Human Rights (OHCHR) was organizing a meeting between the Human Rights Committee and the Committee on Economic, Social and Cultural Rights, as well as a joint campaign for ratification of the two instruments. He urged States that were not yet parties to the International Covenant on Civil and Political Rights and its optional protocols to consider ratification, and he expressed confidence that the General Assembly would take appropriate steps to celebrate the upcoming anniversary.

5. **Ms. Perceval** (Argentina) said that her country gave due consideration to the recommendations of all treaty bodies, including those of the Human Rights Committee. Argentina shared the concern that non-compliance with reporting obligations hindered the Committee's ability to monitor the implementation of the Covenant. She congratulated the State of Palestine on its ratification of the Covenant and welcomed El Salvador, Gabon and Poland as new States parties to the Second Optional Protocol. With respect to the issue of reprisals, Argentina had eliminated the offences of libel and defamation in order to protect freedom of the press.

6. Her delegation would like to know exactly how inadequate resources affected the Committee's work, as well as what the Committee was doing to protect and promote the rights of migrants.

7. **Ms. Tschampa** (Observer for the European Union) said that the European Union remained a staunch supporter of the treaty body strengthening process and shared the concerns of the Human Rights Committee about the number of overdue reports. During its 103rd session, the Committee had amended its rules of procedure to allow it to review in public session the measures taken by non-reporting States parties and to issue the resulting concluding observations as public documents. Her delegation would like to know how those changes had affected the reporting process and if they had improved the Committee's effectiveness.

8. **Ms. Probst-Lopez** (Switzerland) said that her delegation welcomed the Human Rights Committee's decision to draft a new general comment on the right to life. The issue of the death penalty should be considered in association with torture and other cruel, inhuman or degrading treatment. She would like to know what reactions the Committee had received to its draft general comment and how it viewed the relationship between the death penalty and the aforementioned human rights violations. Regarding the Committee's decision to open the simplified reporting procedure to all States parties, she would appreciate hearing some practical examples of the benefits of that procedure.

9. **Ms. Belskaya** (Belarus) said that the work of the treaty bodies required further, more energetic reform. Belarus was committed to meeting its reporting obligations within the deadlines set by the Human Rights Committee. Nevertheless, it had some concerns about the Committee's working methods. Although the first Optional Protocol to the International Covenant on Civil and Political Rights stipulated that the Committee could not consider matters being examined under another procedure or submitted by individuals who had not exhausted all available domestic remedies, it often did so in the case of Belarus. The Committee should cooperate constructively with States parties to clarify all of the circumstances of an individual communication. Moreover, documents and decisions of the Committee could not supersede the Covenant and its optional protocols or lead to new international norms or obligations. Lastly, while Belarus welcomed the inclusion of non-governmental organizations in dialogues between the States and treaty bodies, the Committee should refrain from condescendingly manipulating unverified third-party information and individual experts should not take on judicial functions that were not commensurate with their mandate.

10. Regarding the independence of treaty bodies, Belarus agreed that treaty body experts should not participate in the review of the situation in their own countries. However, it was also important to ensure geographic balance, so that issues were not judged solely by the standards of certain legal and sociopolitical systems. Under paragraph 7 of General Assembly resolution 68/268 on treaty body strengthening, the meetings of States parties could appropriately be used to discuss geographic representation. In that connection, she would appreciate hearing about the prospects for interaction between the Committee and States parties during the meetings of States parties, including on matters relating to the work of the Committee.

11. **Mr. Storrar** (United Kingdom) said that the United Kingdom was among the States that reviewed by the Committee in 2015. Expressing particular concern about the number of overdue initial reports, he urged States parties to submit their reports in good time. The United Kingdom fully supported General Assembly resolution 68/268 on treaty body strengthening, and he would appreciate hearing the Committee's views on the next steps for implementation.

12. In regard to reprisals, his delegation welcomed the endorsement of the San José Guidelines by the treaty body Chairs. Reiterating the United Kingdom's long-standing support for the participation of civil society in the monitoring process, he asked what measures could be taken to reduce the fear of reprisals.

13. **Mr. Amorós Núñez** (Cuba), referring to the simplified reporting mechanism, asked what steps the Committee had taken to ensure that the discussions did not stray into areas that were of interest to particular Committee members but not directly related to the list of issues or to the State party's obligations under the Covenant.

14. **Mr. Fawundu** (Sierra Leone), speaking on behalf of the African Group, reiterated the Group's commitment to the promotion and protection of all human rights and fundamental freedoms. It wished to

put on record that the General Assembly, in paragraph 8 of its resolution 68/268, made it clear that States had primary responsibility for preventing acts of intimidation and reprisal against individuals or groups for their contribution to the work of the human rights treaty bodies. In paragraph 9, it stipulated that the human rights treaty bodies should not create new obligations for States parties, and in paragraph 39, it encouraged the Chairs of the treaty bodies to ensure open, interactive dialogue with States parties during their annual meetings. The adoption of the San José Guidelines constituted a clear breach of General Assembly resolution 68/268, as it created new obligations for States parties. The Chairs of the treaty bodies had exceeded their mandates by requiring further preventive measures, and they should not attempt to codify new norms outside the intergovernmental process.

15. **Mr. Thórsson** (Iceland) asked whether the experiment with dual chambers had been successful and whether the Committee would continue that practice at future sessions.

16. **Mr. Sarki** (Nigeria) said that his Government considered acts of intimidation and reprisals against individuals and groups to be inconsistent with the obligations of Member States. However, in its opinion, the proposed Guidelines did not contain any particularly constructive provisions and encroached on the prerogatives of the Human Rights Council. They also gave the treaty bodies authority that went beyond their mandates and the limits established through the intergovernmental process. The treaty bodies could recommend actions to States parties, but they could not enforce obligations. Moreover, the determination of what constituted intimidation or reprisal was inherently subjective. Lastly, the proposed Guidelines could be used against States to advance agendas inconsistent with international law, such as the sexual and reproductive rights agenda.

17. Delegations should be given more than just two or three minutes to make a statement during the interactive dialogues, because they had serious issues to raise about the reports and there was no other forum within the General Assembly in which representatives could place their reservations on record.

18. **Mr. Salvioli** (Chair, Human Rights Committee), responding to questions, said that the lack of translation and interpretation resources had a profound impact on the work of the Human Rights Committee. Committee members were forced to hold meetings in just one working language in addition to its regular scheduled meetings in order to complete the workload. However, to engage in respectful, serious dialogue, the experts had to be able to communicate clearly with States. Translation and interpretation services were essential, and he urged Member States to give greater consideration to the matter.

19. With respect to immigrant rights, the Committee's approach was defined by the scope of the Covenant, to which it adhered strictly. During its 114th session, the Committee had issued concluding observations on migration and its impact on the enjoyment of civil and political rights.

20. Allowing the Committee to review the situation in non-reporting States parties had encouraged those States to submit reports. They had requested and received extended deadlines and assistance.

21. General comment No. 6 on the right to life had received more than 100 contributions from representatives of civil society and academic entities. It was time to update the comment to reflect more recent Committee jurisprudence, particularly with regard to the death penalty.

22. The Committee was familiar with the views of Belarus on the admissibility of communications. However, the Committee's interpretation of the First Optional Protocol was shared by all of the international human rights bodies and had not been contested by any other State party. He welcomed the willingness of Belarus to comply with its obligations and to engage in interactive dialogue. The Committee took very seriously its duty to ensure that any information received was not manipulated by third parties and listened carefully to the State party's point of view during the interactive dialogue. Its members were of course fallible, but during his seven years on the Committee, he had had no reason to doubt the commitment or professionalism of any member.

23. The San José Guidelines had been endorsed by the Chairs of all the treaty bodies and would be discussed by the various committees. The Human Rights Committee had no intention of creating additional obligations; it was simply responding to the concerns of States. Its sole intent was that States parties should comply with their existing obligations.

24. He welcomed the active interest demonstrated by so many States and particularly Cuba, which was as yet only a signatory of the Covenant. As for the concern about the simplified reporting procedure, it was only the general report that had been eliminated. The interactive dialogue was still based on the State's responses to the list of issues, and the State determined the issues that it wished to emphasize.

25. As the first experiment with dual chambers was taking place at the current session in Geneva, it was too early to draw conclusions. He would transmit the comments and concerns of States to the rest of the Committee members.

26. **Mr. Mousa** (Egypt) thanked the Chair for clarifying that the San José Guidelines did not impose any additional obligations. However, Member States had primary responsibility for implementing paragraph 8 of General Assembly resolution 68/268. United Nations bodies should refrain from circumventing their mandates, and new norms should be developed only in the context of transparent intergovernmental consultations. Egypt rejected any attempt, including as the San José Guidelines, to codify new norms outside that process.

27. **Mr. Mancisidor de la Fuente** (Vice-Chair, Committee on Economic, Social and Cultural Rights) said that, during its dialogues with States parties, the Committee on Economic, Social and Cultural Rights had repeatedly seen the impact of the economic and financial crisis, which raised issues of importance for rights holders and for the interpretation of the Covenant. In a first attempt to address them, the Committee had sent an open letter to States parties in 2012. However, it needed to give additional guidance on reconciling shrinking State budgets with the obligation to use the maximum available resources to implement economic, social and cultural rights and the principle of non-retrogression. In view of the ongoing conflicts and massive migration flows, the Committee also urgently needed to provide in-depth analysis of the preventive and remedial value of protecting economic, social and cultural rights, including the rights to water, food, health care and cultural heritage, as well as guidance for ensuring such protection. With respect to the 2030 Agenda for Sustainable Development, the Committee hoped that economic, social and cultural rights would guide its implementation and the choice of evaluation and accountability criteria.

28. The Human Rights Committee had been working even prior to the adoption of General Assembly resolution 68/268 to improve its methods of work and had already reported to the General Assembly on its actions. Thanks in part to the rule of allocating two meetings for periodic reports and three for initial reports, as well as to the additional time granted in the follow-up measures, it had been able to reduce its backlog significantly. Unfortunately, some of the progress was due to a slowdown in reporting and to the continuing high number of overdue reports. Indeed, close to 30 States parties had never appeared before the Committee. Expressing hope that the capacity-building measures stipulated in the aforementioned resolution would enable more States to meet their reporting obligations, he invited the General Assembly to take additional steps to promote compliance.

29. France, Italy, Luxembourg and San Marino had acceded to the Optional Protocol over the past year, bringing the number of States parties to 21. With the support of the Group of Friends of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, non-governmental organizations and civil society, he hoped to achieve its swift ratification by all States. Since its entry into force, the Committee had received eight communications and issued decisions on three. At its fifty-fourth session, it had decided to expand the working group for communications to six members in order to handle the additional workload imposed by the entry into force of the Optional Protocol. The working group had met on eight occasions in 2015 to discuss issues related to communications received and the Committee's working methods. He urged the General Assembly to allocate appropriate and sufficient resources to its secretariat for its work under the Optional Protocol. The Committee was counting on the assistance of States parties, the Economic and Social Council, the General Assembly, other treaty bodies, civil society and, of course, the Office of the United Nations High Commissioner for Refugees (UNHCR) to be able to carry out its mandate effectively. The fiftieth anniversary of the adoption of the two international human rights covenants should offer ample opportunities for promoting human rights in general and for envisaging specific programmes and actions.

30. **Ms. Pucarinho** (Portugal), speaking on behalf of the Group of Friends of the Optional Protocol to the International Covenant on Economic, Social and

Cultural Rights, welcomed the new States parties to the Optional Protocol and urged all States that had not yet done so to ratify that instrument. The Optional Protocol had corrected a long-standing imbalance regarding the justiciability and enforceability of economic, social and cultural rights, which should be treated on the same footing and with the same emphasis as other human rights, in accordance with the Vienna Declaration.

31. With respect to the individual communications procedure established by the Optional Protocol, she would like to know how strategic litigation could be promoted at the national level. In addition, she would appreciate the Chair's views on how the Committee could engage with States and civil society to promote the adoption of policies to protect the most vulnerable and marginalized in the context of the economic crisis, as well as concrete examples of how the social protection floors advocated in its recent statement (E/C.12/54/3) could improve the access of marginalized groups to economic, social and cultural rights.

32. *Mr. Dempsey, Vice-Chair, took the Chair.*

33. **Ms. Duda-Plonka** (Poland) called for further strengthening of the treaty bodies. Poland valued the Committee's role in assisting and monitoring compliance with the Covenant. In keeping with the European Union Strategic Framework on Human Rights and Democracy, Poland would strengthen its efforts to ensure universal and non-discriminatory access to basic services. It considered full implementation of the International Labour Organization (ILO) conventions a priority and looked forward to the Committee's draft general comment on the right to just and favourable conditions of work.

34. She would appreciate the Chair's opinion on the effectiveness of the Committee's review of States parties and how it could be improved, as well as on how the Committee could help interested States safeguard economic, social and cultural rights. She would also like to know the Committee's plans for future general comments.

35. **Ms. Tschampa** (Observer for the European Union) said that the European Union welcomed the Committee's statement on social protection floors and appreciated its contribution to target 1.3 of the Sustainable Development Goals, on the implementation of nationally appropriate social protection systems and measures for all. She would like to know what were the best tools for softening the impact of budget cuts on disadvantaged and marginalized groups; what challenges the Committee faced in addressing individual communications; what role it could play in promoting ratification of the Optional Protocol and what were the main obstacles to States parties' implementation of its recommendations. Lastly, she would appreciate a status report on its implementation of the simplified reporting procedure.

36. **Ms. Ortega Gutiérrez** (Spain) asked what role the Committee could play in promoting ratification of the Optional Protocol. Spain supported the Committee's decision to draft a general comment on sexual and reproductive rights but urged greater speed, given the number of years elapsed. Her delegation would appreciate hearing details of that work and any other planned general comments.

37. **Mr. Sarki** (Nigeria) said that the work of the Committee on Economic, Social and Cultural Rights was more significant by far to Nigerians than that of any other United Nations body or mechanism. It was time to give economic, social and cultural rights their rightful place alongside cultural and political rights, which had hitherto received priority. Furthermore, formal recognition of the right to development would give impetus to achieving the Millennium Development Goals and the Sustainable Development Goals.

38. **Ms. Naidoo** (South Africa) said that her country welcomed the efforts of the treaty bodies to standardize methods and ensure coherence across their general comments. The provisions of the Covenant were already largely enshrined in the Constitution of South Africa, but following its 2015 ratification of the Covenant, it would be aligning its laws, policies and programmes with its new obligations. South Africa remained convinced of the need to implement Human Rights Council resolution 4/7. The Committee should be placed on a legal par with the other treaty bodies by adopting an additional protocol to transfer the authority for monitoring the Covenant from the Economic and Social Council to the Committee. The protocol would supersede part IV of the Covenant, which had been obsolete since the establishment of the Human Rights Council in 2006.

39. **Mr. Mancisidor de la Fuente** (Vice-Chair, Committee on Economic, Social and Cultural Rights)

said that the Optional Protocol helped to place the Committee on a par with the other treaty bodies by allowing it to consider individual communications. The Committee would endeavour to exploit the immense possibilities of strategic ligation by carefully balancing ambition and strict compliance with the Covenant and its mandate in its responses to those communications, but it was up to civil society, jurists and legal institutions to submit cases involving timely and substantial challenges. The best contribution that the Committee could make to encouraging ratification of the Optional Protocol would be to achieve the above-mentioned balance. However, it could also participate by helping States parties identify the domestic implications of ratification. As parties to the Covenant, States should have no difficulty in implementing the Committee's recommendations in response to individual communications. If they did, they should inform the Committee so that it could improve its future recommendations. The dialogues with States parties were gradually becoming more and more constructive.

40. With respect to austerity measures, the Chair's letter of 2012 remained entirely relevant. In its reviews of States parties, the Committee had seen austerity measures that met the requirements of being temporary, necessary and non-discriminatory and other measures that did not do so. During its dialogue with Greece, the Committee had emphasized that any austerity measures accepted under a bailout negotiated with the European Union should take into account their impact on economic, social and cultural rights.

41. Regarding draft general comments, the Committee was actively working on a draft general comment on the right to sexual and reproductive health and another on the right to just and favourable conditions of work. Given the sensitive nature of the former topic, work was progressing slowly, but Committee members hoped to be able to adopt the draft at the next session. They were endeavouring to incorporate ILO standards in the draft general comment on conditions of work. Once those comments had been adopted, the Committee would begin work on general comments on State obligations regarding business activities, on the right to enjoy the benefits of scientific progress and its applications and on the relevance of the rights referred to in the United Nations Framework Convention on Climate Change. He invited States to participate in the drafting of the proposed general comments, including the one relating to the right to development, which would be of particular interest to Nigeria. In closing, he encouraged all States parties to give careful consideration to ratifying the Optional Protocol.

42. **Mr. Sarki** (Nigeria) wished to know how the Committee could address corruption, which seriously undermined the obligation of States parties to use their maximum available resources.

43. **Mr. Mancisidor de la Fuente** (Vice-Chair, Committee on Economic, Social and Cultural Rights) said the Committee could address the very important issue of corruption during its dialogues with States parties.

44. **Ms. Matar** (Bahrain), responding to a question posed by the Czech representative at the previous meeting regarding the pending visit to Bahrain of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, said that, in a March 2014 bilateral meeting with the Special Rapporteur, her country's Foreign Minister had expressed concern that the Special Rapporteur's visit would undermine efforts to implement the recommendations of the Bahrain Independent Commission of Inquiry by further polarizing society at a critical moment, and he had made it clear that prejudice and ill-informed comments about the situation in Bahrain could only make matters worse. Her Government was committed to cooperation with the United Nations, but it had the right to choose when to extend invitations to United Nations special procedures. It encouraged the Special Rapporteur to consult with it bilaterally as necessary.

45. **Mr. van Bohemen** (New Zealand), speaking also on behalf of Australia, Iceland, Liechtenstein, Norway and Switzerland, commended the Member States, treaty bodies and other relevant actors on their implementation of resolution 68/268 on treaty body strengthening, which had led to the reduction of many work backlogs. Those delegations were particularly encouraged by the positive experience with dual chambers of the Committee on the Rights of the Child, and they encouraged other treaty bodies to consider meeting in two chambers.

46. The year 2016 would mark the tenth anniversary of the Convention on the Rights of Persons with Disabilities. Support for its principles extended beyond the 159 States parties, and significant progress had

been made over the years in the United Nations system and many Member States. Commending the work of the Chair of the Committee on the Rights of Persons with Disabilities, the Committee itself and the Special Envoy of the Secretary-General on Disability and Accessibility, he extended particular recognition to the first Special Rapporteur on the rights of persons with disabilities, Ms. Catalina Devandas-Aguilar. The delegations welcomed her first report to the General Assembly on the right of persons with disabilities to social protection (A/70/297) and agreed that States must move towards rights-based approaches. While they were still considering her report, they supported in principle her recommendations that States should design disability benefits to promote independence and social inclusion, develop disaggregated disability-related indicators for assessing the impact of social protection programmes and ensure that eligibility criteria and targeting mechanisms did not discriminate against persons with disabilities. It was important to strive to ensure the inclusion of all persons with disabilities.

47. The universality and inclusivity of the Sustainable Development Goals would help to ensure that persons with disabilities were not left behind. To include persons with disabilities in their development efforts, Member States should disaggregate data by disability, use disability-specific indicators and adopt a rights-based approach to disability. It was encouraging to see the increasingly active participation of persons with disabilities in international forums such as the third World Conference on Disaster Risks Reduction, the Pacific Regional Consultation for the World Humanitarian Summit and the World Conference on Indigenous Peoples.

48. Speaking in his national capacity, he drew attention to the candidature of Mr. Robert Martin of New Zealand for election to the Committee on the Rights of Persons with Disabilities. If elected, he would be the first person with a learning disability to serve on the Committee. He had been involved in negotiating the Convention and had followed the work of the Committee since its formation.

Agenda item 69: Rights of indigenous peoples (*continued*)

(a) Rights of indigenous peoples (*continued*) (A/70/301; A/HRC/30/41)

(b) Follow-up to the outcome document of the high-level plenary meeting of the General Assembly known as the World Conference on Indigenous Peoples (*continued*) (A/70/84-E/2015/76)

49. **Ms. Tauli-Corpuz** (Special Rapporteur on the rights of indigenous peoples), introducing her report (A/70/301), said that the thematic section analysed how international investment and free trade agreements adversely affected the rights of indigenous peoples to self-determination, to lands, territories and resources, to participation and to free, prior and informed consent. It examined the unjust aspects of such agreements and their constriction of the State's protective capacity and discussed how the systemic preference of investor and corporate rights over human rights disproportionately affected indigenous peoples. It found a need for a more thorough review of the implications of international investment and free trade agreements and advocated systemic reforms to protect the rights of indigenous peoples.

50. Her future reports would focus on how investment agreements could be equally beneficial for indigenous peoples and investors. One emerging practice on which she would elaborate was the inclusion of exception clauses to protect the rights of indigenous peoples and promote sustainable development.

51. In addition to other activities mentioned in her report, she had participated in meetings following up on the outcome document of the World Conference on Indigenous Peoples, which had focused on measures for strengthening the mandate of the Expert Mechanism on the Rights of Indigenous Peoples. To increase her effectiveness, she planned to develop more best practices and to engage even more closely with Member States.

52. **Ms. Kuczer** (Australia) said that Australia continued to strive to give effect to the outcome document of the World Conference on Indigenous Peoples. It supported the review of the Expert Mechanism on the Rights of Indigenous Peoples, which should complement rather than duplicate the work of other United Nations mechanisms. She would

appreciate hearing the Special Rapporteur's views on her role in working with the relevant stakeholders in the review process.

53. **Ms. Tschampa** (Observer for the European Union) said that the European Union's Action Plan on Human Rights and Democracy committed it to developing a policy on indigenous issues in line with the United Nations Declaration on the Rights of Indigenous Peoples and the outcome document of the 2014 World Conference on Indigenous Peoples. In analysing the impact of investment treaties, it was important to consider all angles and to consult with development experts. Investment treaties had the capacity both to help and to hinder indigenous peoples, and some of them had a positive impact on development that was shared by indigenous populations.

54. The United Nations Conference on Trade and Development (UNCTAD) was drafting sustainable development-oriented clauses for international investment agreements, and she wondered if the Special Rapporteur was or would be collaborating in those efforts. In addition, she would appreciate her views on best practices for the human rights assessment of investment agreement frameworks, as well as on the possibility of her working more closely on investment agreement issues with the Working Group on business and human rights. Lastly, she would be interested in hearing the Special Rapporteur's plans and expectations for the 2015 United Nations Climate Change Conference.

55. **Ms. Nymo Riseth** (Norway), speaking as a youth delegate, said that her delegation would appreciate hearing the Special Rapporteur's views on ways to implement the recommendations contained in her report on the situation of indigenous women (A/HRC/30/41). Norway had special procedures for consultations with the Sami Parliament and would like the Special Rapporteur's advice on how to encourage other States to adopt similar practices.

56. **Ms. Landaburu Ibarra** (Mexico) said that, in 2014, Mexico had enacted laws on the oil and power industries that established the obligation to respect, protect and promote the rights of all peoples in the context of energy-sector projects. It had subsequently developed consultation protocols and successfully concluded unprecedented consultations with several indigenous communities in order to obtain their free, prior and informed consent on development projects. In her report, the Special Rapporteur recommended that States should explore participatory mechanisms jointly with indigenous peoples. Her delegation would like to know what the Special Rapporteur considered to be the minimum requirements for such mechanisms and what steps multicultural, multi-ethnic States should take to develop consultation protocols.

57. **Ms. Phipps** (United States of America) welcomed the Special Rapporteur's efforts to identify best practices and to draw attention to the Guiding Principles on Business and Human Rights. Although the Special Rapporteur had recommended developing a legally binding instrument on business and human rights, it would be preferable to make use of the Guiding Principles on Business and Human Rights, the Guidelines for Multinational Enterprises of the Organization for Economic Cooperation and Development (OECD) and the same Organization's recently developed Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector. She asked the Special Rapporteur if specific aspects of the Guiding Principles were particularly relevant to indigenous peoples.

58. **Ms. Cedeño Rengifo** (Panama) said that her country strove to respect, defend and promote the rights of its two indigenous peoples through legislation. It was also a party to ILO Convention No. 107. It had established five special regions based on the ancestral lands of the indigenous peoples as well as an office of vice-minister for indigenous affairs. In compliance with a 2014 decision of the Inter-American Court of Human Rights, her Government had recently made financial reparation to the indigenous communities harmed by the construction of the Alto Bayano dam in 1972. Panama remained committed to complying with its human rights obligations and to following up on the recommendations of the outcome document of the World Conference on Indigenous Peoples.

59. **Ms. Mballa Eyenga** (Cameroon) said that, in reading the Special Rapporteur's highly relevant report, she had been particularly struck by the paralyzing effect of international investment and free trade agreements on Governments. She was pleased that the Special Rapporteur had gone beyond indigenous rights to advocate a better balance between investor and corporate rights and the human rights of all citizens, and she invited all human rights defenders

to read the report, which could open new avenues for the effective defence of human rights. Especially in view of the concern already expressed by other mandate holders, the Special Rapporteur should work more closely with them on the human rights impact of investment and free trade agreements. She asked whether the Special Rapporteur had any hope that the mandate holders could make their voices heard.

60. **Ms. Nguele Makouelet** (Congo) reaffirmed her country's commitment to protecting and promoting the rights of indigenous peoples, demonstrated most recently by its organization of a workshop to raise awareness of the outcome document of the 2014 World Conference.

61. **Mr. Sarki** (Nigeria) asked the Special Rapporteur whether she had exchanged notes with other relevant United Nations mechanisms, such as the Working Group on business and human rights, about any mechanisms that developing countries had in place to mitigate the impact of international business operations. In another context, Nigeria would like to see more attention given to the situation of people of African descent.

62. **Ms. Tauli-Corpuz** (Special Rapporteur on the rights of indigenous peoples), replying to the representative of Australia, said that the critical need for wide consultations with all stakeholders had been recognized by the Expert Mechanism on the Rights of Indigenous Peoples, which had decided to hold an additional expert workshop in 2016 before making specific recommendations for enhancing the mandate. Thus far, the meetings had addressed the issue of duplication by clearly defining the role of the Special Rapporteur, but more discussion was needed as to the exact role of the enhanced mandate.

63. Responding to the observer for the European Union, she expressed interest in reading the relevant provisions of the Action Plan on Human Rights and Democracy. As the European Union recommended, she had consulted with economic development experts during her study as part of a holistic approach. She appreciated the suggestion of collaboration with UNCTAD, whose reports she had frequently referenced in her report, and strongly supported the recommendation that States should carry out human rights assessments before allowing international investments or business operations of any kind. Regarding her plans for the United Nations Climate Change Conference, she and several other special rapporteurs would be present to advocate a human rights-based approach.

64. Replying to the question of the representative of Norway on recommendations for improving the situation of indigenous women, she said that education was certainly essential. She was also requesting the Committee on the Elimination of Discrimination against Women to develop a general comment on the situation of indigenous women and girls.

65. Applauding the efforts of Mexico to obtain the free, prior and informed consent of indigenous peoples, she said that neither States nor corporations benefited from conflicts that were due to a lack of consultation or inadequate consultation. At a minimum, States developing a consultation protocol should include the indigenous people in the drafting process and enlist a lawyer to analyse the impact of existing laws.

66. Responding to the representative of the United States, she said that a legally binding treaty was a long-term goal. In the meantime, States needed to develop national action plans to implement the Guiding Principles on Business and Human Rights and show that they worked. She would like to learn more about the OECD Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector, which she would cite in her next report as an example of good practice.

67. By compensating the indigenous people affected by the Alto Bayano dam, Panama had set an excellent example of reparative justice. Replying to the delegate of Cameroon, she expressed interest in exploring how her mandate could help Cameroon and other States implement human rights and environmental standards. As mentioned in her report, she was working closely with all the special rapporteurs on the issue of human rights and on international investment and free trade agreements. States could help to make the special rapporteurs heard by amplifying their voices and by working with them to identify best approaches to such agreements.

68. Commending Congo for its organization of a workshop on the outcome document, she noted that States should develop national action plans to implement it. Replying to the representative of Nigeria, she said that she was coordinating with a number of special rapporteurs and representatives of treaty bodies in order for them to have a more unified voice on

mitigating the impact of international business operations. She was also contributing to comments on safeguard policies developed by the World Bank and the Asian Infrastructure Investment Bank, and to efforts to make the international climate treaties more human rights-sensitive.

Statements made in exercise of the right of reply

69. **Ms. Anichina** (Russian Federation) deplored the Ukrainian delegation's use of the discussion to make a politicized statement, rather than contributing to a constructive exchange of ideas. She said that all of the obligations of the Russian Federation under international human rights treaties and the Constitution and national legislation applied to all federal entities of the Russian Federation, including Crimea and the city of Sevastopol. All reports of human rights violations, were investigated by the competent bodies, and if they were confirmed, measures were taken to correct the situation and prosecute the perpetrators. Additional oversight was provided by the Office of the Human Rights Ombudsman, which had various regional offices, including one in Crimea. The Russian Federation had done much to compensate for Ukraine's well-known neglect of the Tatar people. She trusted that the politicized, unilateral measures imposed on Crimea by a number of States would not prevent representatives of Crimean Tatar non-governmental organizations with different opinions from providing information to interested delegations. More than 50,000 applications to obtain or recover permanent residency status in Crimea were being processed at that time.

70. **Mr. Yaremenko** (Ukraine) said that Ukraine deplored the Russian Federation's illegal annexation of the Autonomous Republic of Crimea in 2014. In the past year, the President of the Russian Federation had on four occasions changed his position on whether Russian troops had been present during the annexation. Furthermore, in the best tradition of the nineteenth century, the Russian Federation had conferred Russian citizenship on the 2 million inhabitants of the Crimean peninsula without consulting them.

71. The Deputy Head of the Crimean Tatar Mejlis, Ahtem Chiygoz, was being detained for an alleged offence committed in the Autonomous Republic of Crimea on 26 February 2014, on which date it had been de facto and de jure part of Ukraine. He would like to know how someone could be prosecuted in one country for actions taken in another.

72. **Ms. Shlychkova** (Russian Federation) said that all the issues raised by the delegation of Ukraine should be discussed under another agenda item. Russian law allowed any individual who believed that his or her rights had been violated to pursue all available domestic remedies and to seize international jurisdictions once they had been exhausted.

73. **Mr. Yaremenko** (Ukraine) said that it was entirely appropriate to discuss the situation of the Crimean Tatars under the agenda item on the rights of indigenous peoples.

The meeting rose at 6.05 p.m.